

Community Development

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CITY OF WOODBURY BUSINESS SUBSIDY POLICY

PURPOSE:

The purpose of this Policy is to comply with the Business Subsidies Act (the "Act"), which is Minnesota Statutes, Sections 116J.993 through 116J.995. Terms used in this Policy are intended to have the same meanings as used in the Act, and this Policy shall apply only with respect to subsidies granted under the Act if and to the extent required thereby. Other policies, rules and/or regulations in addition to this policy govern specific financing programs such as the Woodbury Growth Fund and Tax Increment Financing. Anyone reviewing this policy is also encouraged to review the policies for the specific program of interest.

DEFINITION OF BUSINESS SUBSIDY

For the purpose of this policy, a "Business Subsidy" means:

- ❖ a state or local government agency grant,
- ❖ contribution of personal property, real property, or infrastructure,
- ❖ the principal amount of a loan at rates below those commercially available to the recipient,
- ❖ any reduction or deferral of any tax or any fee,
- ❖ any guarantee of any payment under any loan, lease, or other obligation, or;
- ❖ any preferential use of government facilities given to a business.

EXCLUSIONS

The following forms of financial assistance are not considered a business subsidy and are therefore not regulated by this policy.

Financial assistance of less than \$25,000;

2. Assistance that is generally available to all businesses or to a general class of similar businesses;
3. Public improvements to buildings or lands owned by the state or local government that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;
4. Redevelopment property polluted by contaminants as defined in Minnesota Statutes, Sections 116J.552;
5. Assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code provided that the assistance is equal to or less than 50% of the total cost;
6. Assistance provided to organizations whose primary mission is to provide job readiness and training services if the sole purpose of the assistance is to provide those services;
7. Assistance for housing;
8. Assistance for pollution control or abatement;
9. Assistance for energy conservation;
10. Tax reductions resulting from conformity to federal tax law;
11. Workers compensation and unemployment compensation;
12. Benefits derived from regulation;
13. Indirect benefits derived from assistance to educational institutions;
14. Funds from bonds allocated under Minnesota Statutes chapter 474A;
15. Assistance for a collaboration between a Minnesota higher education institution and a business;
16. Assistance for a tax increment financing soils condition district as defined under section 469.174 subdivision 19;
17. Redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value;
18. General changes in tax increment financing law and other general tax law changes of a principally technical nature;
19. Federal assistance until the assistance has been repaid to, and reinvested by, the city;
20. Business loans and loan guarantees of \$75,000 or less;
21. Federal loan funds provided through the United States Department of Commerce, Economic Development Administration.

POLICY:

- A. A business subsidy in the City of Woodbury must meet a public purpose, which may include, but may not be limited to increasing the tax base. Additional public purposes may include the following:
 1. Enhancing economic diversity so as to improve the mix of businesses in the area;
 2. Creating high quality job growth;
 3. Providing for job retention, where job loss is imminent and demonstrable;
 4. Stabilizing the community or;
 5. Other public purposes as determined by the City Council

- B. To receive a business subsidy, a business must enter into a business subsidy agreement with the City of Woodbury. The subsidy agreement, except as provided by state law, must include;
 1. A description of the subsidy, including the amount and type of subsidy;
 2. A statement of the public purpose for the subsidy;
 3. Measurable, specific, and tangible goals for the subsidy;
 4. A description of the financial obligation of the recipient if the goals are not met;
 5. A statement of why the subsidy is needed;
 6. A commitment to continue operations in the jurisdiction where the subsidy is used for at least five years after the benefit date. A recipient may be authorized to move from the jurisdiction within the five year period after the benefit date if, after a public hearing, the City of Woodbury approves the recipients request to move;
 7. The name and address of the parent corporation of the recipient, if any;
 8. A list of all financial assistance by all grantors for the project;
 9. A statement of the fair market value of the subsidy to the recipient, including the value of conveying property at less than a fair market price, or other in-kind benefits to the recipient. If a business subsidy benefits more than one recipient, the City must assign a proportion of the business subsidy to each recipient that signs a subsidy agreement. The proportion assessed to each recipient must reflect a reasonable estimate of the recipient's share of the total benefits of the project;
 10. Goals for the number of jobs created, which may include separate goals for the number of part-time or full-time jobs, or, in cases where job loss is specific and demonstrable, goals for the number of jobs retained. These goals must be attained within two years of the benefit date;
 11. Wage goals for any jobs created, retained or enhanced through increased wages. These goals must be attained within two years of the benefit date;
 12. Specifics regarding the recipient's obligation if the recipient does not fulfill the agreement. At a minimum, the agreement must require a recipient failing to meet subsidy agreement goals to pay back the assistance plus interest to the City or, at the City's option, to the account created under section 116J.551 provided that repayment may be prorated to reflect partial fulfillment of goals. A recipient that fails to meet the terms of a subsidy agreement may not receive a business subsidy from the City for a period of five years from the date of failure or until a recipient satisfies its repayment obligation, whichever occurs first. Prior to signing a business subsidy agreement, the City must check with the compilation and summary report to determine if the recipient is eligible to receive a business subsidy.
 13. Representatives of the City of Woodbury and the recipient must sign the subsidy agreement and the agreement must be approved by the City Council.

MANDATORY CRITERIA.

All projects must comply with the following criteria.

“But for” Test. There is a substantial likelihood that the project would not go forward without the business subsidy. This criterion may be met based solely on representations of the recipient of the business subsidy.

2. **Job and Wage Policy.** If the public purpose for providing the business subsidy involves the creation of jobs, the benefiting business must enter into an agreement with the City regarding the number of jobs created, which may include separate goals for the number of part-time or full-time jobs, or, in cases where job loss is specific and demonstrable, goals for the number of jobs retained. These goals must be attained within two years of the Benefit Date as defined by state law. The benefiting business must also agree to pay 90 percent or more of the newly hired employees at a rate equal to or greater than 200 percent of the federal minimum wage in order to receive the business subsidy. Jobs meeting this requirement will be credited toward the wage and job goals agreed to between the City and the benefiting business.
3. **Feasibility.** The recipient must demonstrate to the satisfaction of the City that the project has been adequately financed and either has been or will be completed in a timely fashion.

When considering requests for business subsidies, the City of Woodbury shall be guided by the following principles and criteria for establishing job creation and wage level goals:

- Each project shall be evaluated on a case-by-case basis, recognizing its importance and benefit to the community from all perspectives, including created or retained employment positions and investment in the community.

If a particular project does not involve the creation of jobs in the community, but is nonetheless found to meet the city’s economic development goals, it may be approved without any specific job or wage goals, as may be permitted by applicable law.

In cases where the objective is the retention of existing jobs, the recipient of the subsidy shall be required to provide reasonably demonstrable evidence that the loss of those jobs is imminent.

- The setting of wage and job goals must be sensitive to prevailing wage rates, local economic conditions, external economic forces over which neither the City of Woodbury nor the recipient of the subsidy has control, the individual financial resources of the recipient and the competitive environment in which the recipient's business exists.

Because it is not possible to anticipate every type of project which may be desirable to the community, the City of Woodbury may, in its discretion and in accordance with applicable law, approve projects and subsidies which may vary from the principles and criteria for establishing job creation and wage goals outlined by this Policy.

PUBLIC NOTICE REQUIREMENTS

Before granting a business subsidy that exceeds \$100,000, the City must provide public notice and a hearing on the subsidy. A separate public hearing and notice is not required for a business subsidy if a hearing and notice on the subsidy is otherwise required by law. Public notice of a proposed business subsidy must be published in a local newspaper of general circulation. The public notice must identify the location at which information about the business subsidy, including a summary of the terms of the subsidy is available. It must also include the date, time and place of the hearing. The City must make the information available in printed-paper copies. The City must provide at least a ten-day notice for the public hearing.

MONITORING AND REPORTING

The City must monitor the progress by the recipient in achieving agreement goals. The recipient must provide information regarding goals and results for two years after the benefit date or until the goals are met, whichever is later. If the goals are not met, the recipient must continue to provide information on the subsidy until the subsidy is repaid. The information must be filed on forms developed by the Commissioner of Employment and Economic Development in cooperation with representatives of the City. A report must be filed no later than March 1st of each year for the previous year. The City must forward copies of the reports received by recipients to the Commissioner of Employment and Economic Development by April 1st. If the recipient does not submit its report, the City must mail the recipient a warning within one week of the required filing date. If, after 14 days of the postmarked date of the warning, the recipient fails to provide a report, the recipient must pay the City a penalty of \$100 for each subsequent day until the report is filed. The maximum penalty shall not exceed \$1000.

The City, regardless of whether or not they have awarded any business subsidies, must file a report by April 1 of each year with the Commissioner of Employment and Economic Development. The report must include a list of recipients that did not complete the recipient report required and a list of recipients that have not met their job and wage goals within two years and steps being taken to bring them into compliance or to recoup the subsidy.

City Administrator

Date

Original Effective Date: January 12, 2000

Revised - EDA Review: March 11, 2004

Revised - City Council Adoption: April 28, 2004